

FemHealth USA, Inc., d/b/a carafem, on
behalf of itself, its physicians, and its
patients;

Plaintiffs,

v.

City of Mount Juliet; Kenny Martin, City
Manager of Mount Juliet, in his official
capacity; James Hambrick, Chief of Police
of Mount Juliet, in his official capacity;
Jennifer Hamblen, Zoning Administrator of
Mount Juliet, in her official capacity,

Defendants.

Civil Action No. 3:19-cv-01141
Judge: Eli J. Richardson

Plaintiff FemHealth USA, Inc. d/b/a/ carafem (hereinafter, “carafem”) on behalf of itself, its physicians and staff, and its patients, move this Court, pursuant to Fed. R. Civ. P. 65 for a preliminary injunction to enjoin enforcement of Ordinance 2019-16 (the “Ordinance”), a zoning regulation that effectively prevents carafem from performing surgical abortions for patients in need of such treatment and which was enacted with the clear purpose and effect of targeting carafem, the only abortion clinic within the Mt. Juliet city limits.

Case 3:19-cv-01141 Document 4 Filed 12/18/19 Page 1 of 4 PageID #: 37

undue burden to carafem's patients and inflicting irreparable harm each and every day it remains in effect. The Ordinance likewise violates carafem's equal protection rights by treating it differently from all other outpatient health care providers without sufficient justification and is a constitutionally invalid arbitrary zoning restriction.

As detailed more fully in the accompanying Memorandum of Law and declarations in support thereof, preliminary injunctive relief is warranted. Carafem is substantially likely to prevail on its claims that the Ordinance (1) violates its patients' right to due process under the Fourteenth Amendment to the U.S. Constitution by imposing an undue burden on their access to abortion; (2) violates its right to equal protection under the Fourteenth Amendment to the U.S. Constitution; and (3) is an arbitrary zoning restriction in violation of the Fourteenth Amendment to the U.S. Constitution and Article 1, section 8 of the Tennessee Constitution. Carafem and its patients will be irreparably harmed in the absence of injunctive relief. Moreover, the balance of equities weighs firmly in carafem's favor and the relief it has requested will further the public interest.

Wherefore, for the foregoing reasons and those set forth in the accompanying Memorandum in Support and declarations, carafem respectfully requests that the Court enter a preliminary injunction and/or temporary restraining order prohibiting the enforcement of the Ordinance while this case proceeds to a final disposition.

Respectfully submitted,

/s/ Thomas H. Castelli

Thomas H. Castelli, BPR#024849
Legal Director
ACLU Foundation of Tennessee
P.O. Box 120160
Nashville, TN 37212
Tel.: 615-320-7142
tcastelli@aclu-tn.org

Andrew D. Beck*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street
New York, NY 10004
Tel.: 212-549-2633
abeck@aclu.org
fkaye@aclu.org

Elizabeth P. Gray*
Heather M. Schneider*
Tara L. Thieme*
Vanessa Richardson*
Devon W. Edwards*
Sruti Swaminathan*
WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, NY 10019-6099
hschneider@willkie.com
(212) 728-8187
(212) 728-9187 *Facsimile*

**Pro hac vice motions forthcoming*

Attorneys for carafem

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing *Motion for Preliminary Injunction* will be served on all defendants identified below contemporaneously with the Summons and Complaint via hand delivery:

City of Mt. Julietc/o Kenny Martin
City Manager
Mt. Juliet City Hall
2425 N Mt. Juliet Road
Mt. Juliet, TN 37122

Kenny Martin
City Manager
Mt. Juliet City Hall
2425 N Mt. Juliet Road
Mt. Juliet, TN 37122

James Hambrick
Chief of Police
Mt. Juliet Police Department
1019 Charlie Daniels Parkway
Mt. Juliet, TN 37122

Jennifer Hambleton
Planning Director
Mt. Juliet City Hall
2425 N Mt. Juliet Road
Mt. Juliet, TN 37122

/s/Thomas H. Castelli
Thomas H. Castelli